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"We change laws."

August 17, 2015

Committee Chair Klint Kesto
House Judiciary Committee
124 North Capitol Avenue
P.O. Box 30014
Lansing, MI 48909-7514

Bill: HB 4209 (Callton)
Position: Support with amendments

Dear Chairman Kesto:

In concert with thousands of supporters in Michigan and over 125,000 nationwide, the Marijuana Policy Project (MPP) works toward sensible marijuana policy reform on both the state and federal levels. MPP was the primary financial supporter and drafter of the Michigan Medical Marihuana Act (MMMA), which was approved by 63% of voters on November 4, 2008 — including a majority in each of the state's 83 counties. As an organization, we represent thousands of individuals across Michigan, the other 22 medical marijuana states and in the District of Columbia, and in the four states that have legalized marijuana use for adults 21 and over. We write today in support of HB 4209 (Callton).

We are strong believers in sensible, effective, and well-considered regulatory systems. For the most part, HB 4209 is a bill that would establish such a system. A regulatory approach is long overdue in the state and will help create a comprehensive, statewide system to replace the uncertainty and inconsistency that unfortunately are hallmarks of the program today. We wish to thank Rep. Callton and the many who have worked with him to craft this legislation.

In particular, we applaud the strong protections specified in the bill for those who are following the requirements of the regulatory system, as well as the protections for property owners who allow their property to be used by those who participate in the system. The bill contains many other sensible protections, including its inclusion of paraphernalia, along with reasonable testing requirements, and many other features.

However, there are some aspects of the bill that should be amended, and we strongly encourage the House Judiciary Committee to make changes to the bill in the following areas:

Assessment system
The assessment system outlined in Sections 603 and 604 could create significant problems, in that it could either overburden prospective businesses (particularly certain types of businesses) or cause the state to fall short of actual costs. As it is currently written, four of the types of business licenses, including cultivators, processors, transporters, and provisioning centers, must each pay one-fourth of the costs of the state program. During the first year, that figure is set at $9 million.

However, the state does not know the actual costs it will have, so it may either fall short of the amount needed or it may find that it is unfairly burdening businesses if the amount is too high, since businesses must pay their portion of that amount before they can begin operations. In addition, the bill requires that each segment of the industry pay one-fourth the total amount

before it is known how large each segment is relative to the other types of licenses. If there are only a handful of secure transporters relative to the cultivators, for instance, they will pay an enormous price to participate in the state program as compared with other types of entities.

The state should adopt an approach that is consistent with the system currently in place in most of the medical marijuana states. Annual or bi-annual license fees that are established for each type of business. The various types of agencies and the local governments can still receive the same revenue proportions as are allocated in the bill, but without an artificial figure which may or may not reflect actual costs and which could disproportionally affect certain types of businesses.

Access to secure transporter licenses too restrictive
Under the current proposed law, a grower (Sec. 501(6)), processor (Sec. 502(4)), or provisioning center (Sec 504(3)) may not have more than a 10% ownership interest in a secure transporter. Considering that all transportation of medical marijuana in the state must be conducted through a licensed transporter, this could create a significant burden in rural areas of the state in which secure transporters may choose not to operate. The committee should amend this bill to allow growers, processors, and provisioning centers to also obtain separate transporter licenses so that they may reasonably transport medical marijuana where it needs to go.

Search provisions are unreasonably broad
Under the current version of HB 4209, the board, its agents, inspectors, and any law enforcement personnel working on behalf of the board may enter and inspect a location at any time. This is unreasonably broad. While inspection is an important component of any regulatory system, inspections should be restricted to a set number of hours each day, such as 8:00 a.m. to 8:00 p.m., or perhaps during normal business hours for the entity. Considering that some licensed entities may not be able to respond at any time of the day or night, and the penalty for violating provisions of the proposed act could be either significant fines or possible suspension, the inspection times should be reasonable. A business owner should not have to be concerned she might need to be available for a surprise inspection at 3:00 in the morning.

The state should not impose an 8% tax on sale to dispensaries
Medical marijuana patients are not compensated for the cost of medical marijuana through medical insurance policies. As a result, they must pay the entire cost of medical marijuana out of their own pockets. Michigan already imposes a 6% sales tax on goods sold in the state, which apply to the sale of medical marijuana. This additional 8% will simply increase that burden. Considering that medical marijuana patients are often seriously ill, the state should not place an unreasonable burden on them when most if not all similar programs in nearly two dozen other states are able to meet costs through licensing fees.

Unreasonable denial of licenses for federal felons
Every single person who participates in a state-regulated medical marijuana program and who cultivates, processes, tests, or sells medical marijuana would be considered a criminal in the federal system. Most of them would be considered felons. Yet under the proposed law presented here, if any of were actually convicted, they would be denied a license in the proposed system in Michigan. Section 402(2)(a) should be amended to limit excluded offenses to those that would violate state law if charged under the state system of criminal laws. It is unreasonable to exclude those who simply get caught doing what the state would otherwise license everyone else to do.

Thank you for your work on the important issue of medical marijuana access for Michigan's seriously ill patients. Please let us know if you have any questions.

Sincerely,

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